

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

AUG 01 2013

David J. Bradley, Clerk

UNITED STATES OF AMERICA

VS.

JORGE GARZA

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Case No.: M-13-0070-S2-12

NOTICE TO THE COURT THAT JOSE (JOE) PADILLA, HIDALGO COUNTY
DEPUTY SHERIFF HAS BEEN SUBPOENED BY THE DEFENSE IN THE
ABOVE-STYLED-AND-NUMBERED CAUSE AND THAT HE WILL
ASSERT HIS PRIVILEGE UNDER THE FIFTH AMENDMENT OF
THE UNITED STATES CONSTITUTION AND NOT TESTIFY

TO THE HONORABLE JUDGE OF SAID COURT:

Jose Padilla has been subpoenaed by the Defense to appear at 1:30 p.m., today, Thursday, August 1, 2013, to testify in the trial of the above-styled-and-numbered cause. Mr. Padilla gives notice to the Court that, if he is called to the witness stand to testify, he will assert his privilege not to testify under the 5th Amendment of the United States Constitution for the following reasons:


1. Mr. Padilla has been interviewed and interrogated on two occasions by Assistant United States Attorney James Sturgis in the presence of some federal agents and attorney Luis Singleterry who appeared with Mr. Padilla as his council.
2. On the day that Mr. Padilla was to appear before United States Attorney James Sturgis for a third interview and interrogation, the undersigned attorney called Mr. Sturgis and left word that he called back. When Mr. Sturgis called back and spoke to the undersigned attorney, the undersigned attorney informed Mr. Sturgis that Mr. Padilla was not going to appear for his third interview and interrogation. Mr. Sturgis indicated that he would pursue an indictment against Mr. Padilla. Therefore, Mr. Padilla has reason to believe that he is a target of the United States government pursuant to an investigation.
3. Mr. Sturgis indicated to Mr. Padilla that, if he cooperated and gave Mr. Sturgis information which Mr. Sturgis believed Mr. Padilla could provide to him, the government would recommend probation to the Court at sentencing for Mr. Padilla.

4. When the undersigned attorney spoke with Mr. Sturgis on the telephone, the undersigned attorney requested that Mr. Sturgis provide the undersigned attorney with evidence indicating that Mr. Padilla was guilty of some violation of federal criminal law. Mr. Sturgis indicated that he did not have to provide him with any such information, but would continue the investigation against Mr. Padilla.
5. On Wednesday, July 31, 2013, the following was stated in The Monitor on page 8A top of column 5 at about the middle of the column, "A second set of allegations came when Guerra Sr. told Gutierrez that he had given \$2,000.00 or \$3,000.00 to Hidalgo County sheriff's Cmdr. Jose "Joe" Padilla in exchange for information as to any law enforcement investigation into them". Mr. Padilla assumes that this exchange between Gutierrez and Guerra occurred during cross-examination by Gutierrez during the trial of this case.

Attached is a copy of a subpoena served on Jose Padilla.

WHEREFORE, Mr. Padilla respectfully requests that he be fully admonished by the Court as to his right not to testify, but to remain silent under the 5th Amendment of the United States Constitution, and requests the hearing before the Court out of the presence of the jury with notice to him through the undersigned attorney of a date and time for the hearing.

Respectfully submitted by:


Joe A. Cisneros
Attorney for Jose Padilla, Witness
State Bar No.: 04256000
Southern District Bar No.: 3922
The Cisneros Law Firm L.L.P.
312 Lindberg Avenue
McAllen, Texas 78501
Telephone: (956) 682-1883
Facsimile: (956) 682-0132

CERTIFICATE OF SERVICE

I, Joe A. Cisneros, hereby certify that I will hand deliver a copy of this notice to the AUSA prosecuting the case and the Defense counsel in open court on this 1st day of August, 2013.


JOE A. CISNEROS

AO 89 (Rev. 08/09) Subpoena to Testify at a Hearing or Trial in a Criminal Case

UNITED STATES DISTRICT COURT

for the

Southern District of Texas

United States of America)

v.)

Jorge Garza)

Case No. M-13-0070-S2-12

Defendant)

SUBPOENA TO TESTIFY AT A HEARING OR TRIAL IN A CRIMINAL CASE

To: Jose Padilla
Hidalgo County Sheriff's Office
711 El Cibolo Road
Edinburg, TX 78541

YOU ARE COMMANDED to appear in the United States district court at the time, date, and place shown below to testify in this criminal case. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place of Appearance: Bentsen Tower 1701 W. Bus. Hwy. 83, Floor 9 McAllen, Texas 78501	Courtroom No.: Judge Randy Crane Date and Time: 08/01/2013 1:30 pm
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You must also bring with you the following documents, electronically stored information, or objects (*blank if not applicable*):

Please call (956) 605-1556 once you are served.

(SEAL)

Date:

8/1/13

CLERK OF COURT

Candice Jones

Signature of Clerk or Deputy Clerk

The name, address, e-mail, and telephone number of the attorney representing (*name of party*) Jorge Garza

, who requests this subpoena, are:

Lilly A. Gutierrez
4901 S. Jackson Rd.
Edinburg, Texas 78539
(956) 994-0987

AO 89 (Rev. 08/09) Subpoena to Testify at a Hearing or Trial in a Criminal Case (Page 2)

Case No. M-13-0070-S2-12

PROOF OF SERVICE

This subpoena for (name of individual and title, if any) Jorge Garza
was received by me on (date) 8-1-13.

☒ I served the subpoena by delivering a copy to the named person as follows:
Hand delivery
on (date) _____ ; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of

\$ 40.00

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00

I declare under penalty of perjury that this information is true.

Date: _____

[Signature]
Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

8-1-13
@ 10:00 A